

**CITY COUNCIL/REDEVELOPMENT AGENCY
MINUTES OF A REGULAR MEETING**

**WESTMINSTER, CALIFORNIA
June 2, 2004**

The City Council of the City of Westminster, California convened on June 2, 2004 at 6:00 p.m. in a Regular Meeting in the Council Conference Room, 8200 Westminster Blvd, Westminster, California.

**6:00 P.M.
CLOSED SESSION**

CALL TO ORDER:

ROLL CALL

PRESENT: RICE, QUACH, FRY, MARSH, PARIS
ABSENT: NONE

CLOSED SESSION:

The City Council/Redevelopment Agency recessed to a Closed Session for the following purposes:

- 1) Conference with Legal Counsel pursuant to Government Code Section 54956.9(a), Existing Litigation: Adelle Marie Wagner v. City of Westminster; and
- 2) Conference with Labor Negotiators pursuant to Government Code Section 54957.6: Agency Designated Representatives: Interim City Manager Penny Loomer and Director of Personnel and Risk Management Pat Corcoran; Employee Organizations: Westminster Police Officers' Association (WPOA) and Westminster Municipal Employees' Association (WMEA).

RECESS: At 7:00 p.m., Mayor/Agency Chair Rice recessed from the meeting held in the Council Conference Room.

7:00 P.M.

RECONVENE CITY COUNCIL/REDEVELOPMENT AGENCY MEETING: The City Council/Redevelopment Agency Meeting was reconvened at 7:10 p.m. in the Council Chambers.

ROLL CALL:

PRESENT: RICE, QUACH, FRY, MARSH, PARIS
ABSENT: NONE

SALUTE TO FLAG: Council Member Marsh

INVOCATION: Mayor Rice

REPORT OUT OF CLOSED SESSION:

The City Attorney stated that there was nothing to report out of the Closed Session.

SPECIAL PRESENTATIONS:

- A. The Mayor and Council Members presented a Key to the City pin to Pauline Puglia for being named the "Senior of the Year". Vince Agor, the Chairman of the Commission on Aging, presented the Council with a "check" representing the \$479,739.00 that volunteers have saved the City.
- B. The Mayor and Council Members and Tish Murray, Executive Director of the Westminster Boys and Girls Club, presented a Resolution of Commendation to Ernesto Espinoza, named "Youth of the Year" by the Westminster Boys and Girls Club.
- C. The Mayor and Council Members presented a Resolution of Commendation to Cu Tran for his voluntary efforts to clean Freedom Park.
- D. The Mayor and Council Members presented Certificates of Congratulations to Westminster Star View Elementary School students, Huan Nguyen and Victoria Pash, and their teacher, Mrs. Quisel, who participated in this year's "Water is Life" Poster/Slogan Contest, sponsored in conjunction with the Municipal Water District of Orange County (MWDOC). MWDOC Director Ed Royce, Sr. also presented the winners with certificates and tokens. He also distributed MWDOC calendars to the Mayor and the Council Members.

1. CONSENT CALENDAR**APPROVAL OF MINUTES****(REMOVED AND HEARD SEPARATELY)**

- 1.1 **(City Council/Redevelopment Agency) Minutes of the Regular Meeting of the City Council/Redevelopment Agency of May 5, 2004; Minutes of the Adjourned Regular Meeting of the City Council/Redevelopment Agency of May 10, 2004; and Minutes of the Regular Meeting of the City Council/Redevelopment Agency of May 19, 2004.**

Darrell Nolta, resident of Westminster, requested that a change be made to the minutes of May 19, 2004, regarding the legality of the vote on Resolution No. 3835, relating to the burdens placed upon the City by representatives and officials from the Socialist Republic of Vietnam traveling in or through the City of Westminster.

Motion was made by Council Member Paris, and seconded by Council Member Fry, to approve Item No 1.1, as presented. The motion was carried by a 5-0 vote.

ROUTINE MATTERS

- 1.2 (City Council/Redevelopment Agency) Waive reading in full of all ordinances and resolutions under consideration, and approve and adopt same by reading title only.**

ACTION: Approved.

- 1.3 Statement of Investment Policy (105-01)**

ACTION: The City Council approved the Statement of Investment Policy.

- 1.4 Award of contract for 2003-2004 City-wide Street Improvement Project (CTB and Cap) (502-01)**

ACTION: The City Council approved the award of contract to the low qualified bidder in the amount of \$1,199,567.10 to All American Asphalt; all other bids were rejected; and the City Manager was authorized to execute the contract.

- 1.5 Authorization for an increase of \$403.00 to Purchase Order No. 17953 for final payment to Hydrologue, Inc. for FY 2003-04 (502-08)**

ACTION: The City Council authorized an increase of \$403.00 to Purchase Order No. 17953 for final payment to Hydrologue, Inc., for over-purging and testing of wells at Corporate Yard tank site.

- 1.6 Annual Purchase Order Adjustment for Concrete & Related Street Repairs at Various Locations with S. Parker Engineering (502-19)**

ACTION: The City Council approved an increased annual amount for the purchase order for S. Parker Engineering, Inc. for the Maintenance/Service Agreement for Concrete & Related Street Repairs at Various Locations for \$750,000.00 (P. O. No. 17848 for FY 2003-04)

- 1.7 Contract for Animal Shelter Services (502-01)**

ACTION: The City Council approved a one year contract to provide animal shelter services with Samir S. Botros, D. V. M., owner of and doing business as Orange County Humane Society and AAA Animal Hospital, in the amount of \$48,000 for fiscal year 2004-05, with an option to renew upon mutual agreement for two (2) one year intervals, in the proposed amount of \$49,000 for fiscal year 2005-06, and \$50,000 for fiscal year 2006-07.

ORDINANCES (SECOND READING)/RESOLUTIONS

- 1.8 Resolution No. 3843 - A Resolution of the City Council of the City of Westminster Concerning the Status of the Circulation Element for the City of Westminster (613-07)**

ACTION: The City Council adopted Resolution No. 3843, and waived further reading.

ADMINISTRATIVE ITEMS

- 1.9 Special Event Permit application from the Coalition of Vietnamese Veterans to hold Vietnamese Armed Forces Day on Sunday, June 20, 2004 between the hours of 6:00 a.m. and 4:00 p.m. in the Civic Center Parking lot adjacent to the Senior Center (Anticipated attendance is 500 people) (213-03)**

ACTION: The City Council approved the Special Event Permit application subject to the conditions attached to the staff report.

WARRANT REGISTER

- 1.10 (City Council/Redevelopment Agency) Warrant Register dated May 15 through 28, 2004 (105-09)**

ACTION: Approved.

INFORMATION AND REPORTS

- 1.11 Minutes of the Planning Commission study session and regular meetings held May 12, 2004 (104-11)**

ACTION: Received and filed.

- 1.12 Minutes of the Westminster Youth Committee meeting held March 5, 2004 (104-17)**

ACTION: Received and filed.

- 1.13 Treasurer's Report – March and April, 2004 (105-08)**

ACTION: Received and filed.

- 1.14 Minutes of Westminster Traffic Commission meeting held on May 4, 2004 (104-12)**

ACTION: Received and filed.

Motion was made by Council Member Paris, and seconded by Council Member Marsh, to approve the Consent Calendar with the exception of Item No 1.1, which was removed for separate consideration. The motion was carried by a 5-0 vote.

END OF CONSENT CALENDAR

2. COMMISSION/COMMITTEE ITEMS SUBJECT TO REVIEW

2.1 The actions of the Planning Commission meeting held on May 26, 2004

The Community Development Director reviewed the actions of the Planning Commission meeting of May 26, 2004:

- 1) 15562 Brookhurst Street (Case No. 2004-23, Conditional Use Permit) for the on-site sale and consumption of beer and wine in conjunction with an existing restaurant.
- 2) 13621 & 13631 Beach Boulevard (Case No. 2004-11, Zone Change/Lot Line Adjustment/Conditional Use Permit/Site Plan/Design Review) for construction of a new two-story commercial building in order to establish a used car dealership.

Council Member Marsh requested that Case 2004-23 (Conditional Use Permit) for the property located at 15562 Brookhurst Street be reviewed by the City Council.

Motion was made by Mayor Pro Tem Quach, and seconded by Council Member Marsh, to receive and file the report of actions of the May 26, 2004 Planning Commission meeting. The motion was carried by a 5-0 vote.

3. PUBLIC HEARINGS

3.1 REVIEW OF PLANNING COMMISSION'S APPROVAL OF CASE NO. 2004-16 (CONDITIONAL USE PERMIT); LOCATION: 16494 BEACH BOULEVARD; APPLICANT: DEBORA OSWANDEL (201-00)

Time set for a public hearing to review the Planning Commission's decision to approve a Conditional Use Permit to allow massage services in conjunction with a day spa at 16494 Beach Boulevard.

The Community Development Director noted that the applicant already had two part-time massage technicians, and was requesting eight additional massage technicians, along with longer business hours.

MAYOR RICE OPENED THE PUBLIC HEARING AND ASKED IF THERE WERE ANY PERSONS WISHING TO SPEAK IN FAVOR OF THE ITEM.

Debora Oswandel, applicant/owner, clarified that she does not need ten part-time massage technicians at this time, but is requesting a total of ten for future expansion. She said that the longer hours would be as her business grew.

SEEING THERE WAS NO ONE WISHING TO SPEAK AGAINST THE ITEM,
MAYOR RICE CLOSED THE PUBLIC HEARING.

Mayor Rice stated she was not in favor of the business being opened on Sundays, however, she said she would support the request since the police have approved it.

Council Member Marsh asked the applicant if there have been any massage-related violations at her current location or any previous locations, to which Ms. Oswandel replied there were not any violations.

Motion was made by Mayor Pro Tem Quach, and seconded by Council Member Marsh, to approve the recommendation of the Planning Commission and:

- 1) Uphold the Planning Commission's decision to approve Case No. 2004-16; and
- 2) Adopt Resolution No. 3838 entitled "A Resolution of the City Council of the City of Westminster approving Case No. 2004-16 (Conditional Use Permit) to allow massage services in conjunction with a day spa located at 16494 Beach Boulevard" and waive further reading.

The motion was carried by the following vote:

AYES: RICE, QUACH, FRY, MARSH, PARIS
NOES: NONE
ABSENT: NONE

**3.2 ADOPTION OF BUDGET FOR 2004-06 FISCAL YEARS, AND
APPROPRIATING FUNDS FOR FISCAL YEAR 2004-05 ONLY; ADOPTION OF
ARTICLE XIII B APPROPRIATION LIMIT; REVISION OF FEES FOR SPECIAL
SERVICES (105-03)**

Time set for a Joint Public Hearing of the Westminster City Council, Redevelopment Agency, and Public Financing Authority on the proposed City of Westminster Operating Budget and the Capital Improvement Programs for the Fiscal Years 2004-2005 and 2005-2006, the proposed Westminster Redevelopment Agency Operating Budget and the Capital Improvement Programs for the Fiscal Years 2004-2005 and 2005-2006, and the proposed Public Financing Authority Operating Budget for Fiscal Years 2004-2005 and 2005-2006. In addition to adopting the Fiscal Years 2004-2005 and 2005-2006 Budgets, the City Council will adopt its appropriation limit.

A revision of fees and charges for special services provided by the City of Westminster in compliance with Chapter 3.50 of the Westminster Municipal Code will also be considered.

The Finance Director presented the proposed budget for Fiscal Year 2004-2005 and 2005-2006. She explained how Proposition No. 58 affected the sales tax, shifting more money to the state. The proposed budget also takes into consideration the shift of vehicle license fees and ERAF. She reviewed the cuts made by each department, the supplemental requests and the summary page. She reviewed the proposed schedule of fees and charges.

MAYOR/CHAIR RICE OPENED THE PUBLIC HEARING AND ASKED IF THERE WERE ANY PERSONS WISHING TO SPEAK IN FAVOR OF THE ITEM.

Bob Crossley, resident of Westminster, stated he was in favor of the proposed budget, however, he inquired concerning funding for the water capital improvement program and code enforcement.

Darrell Nolta, resident of Westminster, stated that he was in favor of the proposed budget, but was opposed to the fee increases.

Phil Hodgetts, resident of Westminster, suggested that citizens can help the City by making their purchases at stores in the City of Westminster.

SEEING THERE WAS NO ONE WISHING TO SPEAK AGAINST THE ITEM, MAYOR/CHAIR RICE CLOSED THE PUBLIC HEARING.

Council/Agency/Authority Member Marsh commended staff for the two-year budget because he believes this gives a better forecast.

Motion was made by Council Member Marsh, and seconded by Council Member Paris, to adopt:

- 1) RESOLUTION NO. 3840 entitled, " A Resolution of the City Council of the City of Westminster adopting the budget for the 2004-06 fiscal years, and appropriating funds for fiscal year 2004-05 only " and waive further reading;

The motion was carried by the following vote:

AYES: RICE, QUACH, FRY, MARSH, PARIS
NOES: NONE
ABSENT: NONE

Motion was made by Council Member Fry, and seconded by Council Member Paris, to adopt:

- 2) RESOLUTION NO. 3841 entitled, "A Resolution of the City Council of the City of Westminster establishing the Article XIII B Appropriation limit for the 2004-05 fiscal year" and waive further reading.

The motion was carried by the following vote:

AYES: RICE, QUACH, FRY, MARSH, PARIS
NOES: NONE
ABSENT: NONE

Motion was made by Council Member Marsh, and seconded by Council Member Fry, to adopt and modify:

- 3) RESOLUTION NO. 3842 entitled, "A Resolution of the City Council of the City of Westminster establishing fees and charges for special services provided by the City of Westminster with the modification incorporated therein as recommended by staff reducing from 100% the recapture to bring it down from an average of 22% increase to an estimated average 12.5% increase, adopting the language and the proposed findings provided by staff on the basis that the shock impact is such a large increase in one year that it could have an adverse affect on other revenues in the city and unfairly prejudice people in that first year who would be affected thereby," and waive further reading.

The motion was carried by the following vote:

AYES: RICE, QUACH, FRY, MARSH, PARIS
NOES: NONE
ABSENT: NONE

Motion was made by Authority Member Marsh, and seconded by Authority Member Paris, to adopt:

- 1) RESOLUTION NO. 22 entitled, "A Resolution of the Westminster Public Financing Authority adopting the City of Westminster budget for the 2004-06 fiscal years, and appropriating funds for fiscal year 2004-05 only" and waive further reading.

The motion was carried by the following vote:

AYES: RICE, QUACH, FRY, MARSH, PARIS
NOES: NONE
ABSENT: NONE

Motion was made by Agency Member Marsh, and seconded by Vice Chair Quach, to adopt:

- 1) **RESOLUTION NO. 167** entitled, "A Resolution of the Westminster Redevelopment Agency adopting the budget for the 2004-06 fiscal years, and appropriating funds for fiscal year 2004-05 only" and waive further reading.

The motion was carried by the following vote:

AYES: RICE, QUACH, FRY, MARSH, PARIS
NOES: NONE
ABSENT: NONE

3.3 RESOLUTION NO. 3836 - WATER RATES & CHARGES FOR WATER SERVICES (610-13)

Time set for a public hearing to consider a proposal to revise the water rates for the City of Westminster in compliance with Chapter 13.08 of the Westminster Municipal Code.

The Public Works Director introduced Phil Anthony, Orange County Water District Director, who explained the rise in groundwater costs by OCWD, the agency that manages the groundwater, due to the drought and other factors. The Public Works Director added that the pass-through costs from OCWD and MWDOC for imported water is part of the reason for the increase; the other reason is the rise in personnel benefits and is applied to all rate classes.

MAYOR RICE OPENED THE PUBLIC HEARING AND ASKED IF THERE WERE ANY PERSONS WISHING TO SPEAK IN FAVOR OF THE ITEM.

Phil Hodgetts, resident of Westminster, advised residents to use a drip method to irrigate.

MAYOR RICE ASKED IF THERE WERE ANY PERSONS WISHING TO SPEAK IN OPPOSITION TO THE ITEM.

Bob Crossley, resident of Westminster, stated he was opposed because he believes that the increase to the water users is recommended without giving thought to imposing mandated water conservation measures as stated in the Municipal Code.

Darrell Nolta, resident of Westminster, expressed his opposition to the water rate structure.

MAYOR RICE CLOSED THE PUBLIC HEARING.

The Public Works Director explained the fixed charge but disagreed that lower water users are subsidizing higher water users because lower water users only pay a percentage of the fixed charge. Also, he believes that the tiered water rate is an effort to encourage water conservation, but he noted that the drought has not reached the level where stricter water conservation methods should be imposed, which happens when water is not available.

Council Member Marsh noted that the water rate structure was not in question this evening, only the pass-through, across-the-board percentage increase.

Motion was made by Council Member Fry, and seconded by Council Member Paris, to approve the recommendation of the Financial Review Committee and adopt Resolution No. 3836 entitled, "A Resolution of the City Council of the City of Westminster rescinding Resolution Nos. 3643 and 3740, and adopting Administrative Rules and Regulations for the City Water System pursuant to the Municipal Code", and waive further reading.

The motion was carried by the following vote:

AYES: RICE, QUACH, FRY, MARSH, PARIS
NOES: NONE
ABSENT: NONE

3.4 PUBLIC HEALTH GOALS REPORT FOR DRINKING WATER 2004 (610-12)

Time set for a public hearing to consider a report on City of Westminster Water Division Public Health Goals for Drinking Water.

The Public Works Director stated that a provision of the California Health and Safety Code dictates that every three years a special report be written and presented in a public forum comparing the City of Westminster water quality with the Public Health Goals (PHGs) adopted by California EPA.

MAYOR RICE OPENED THE PUBLIC HEARING AND ASKED IF THERE WERE ANY PERSONS WISHING TO SPEAK IN FAVOR OF THE ITEM. SEEING THERE WAS NO ONE IN FAVOR, MAYOR RICE ASKED IF THERE WERE ANY PERSONS WISHING TO SPEAK IN OPPOSITION TO THE ITEM.

Darrell Nolta, resident of Westminster, said he was neutral, however, he commented on the Public Health Goals report regarding uranium.

MAYOR RICE CLOSED THE PUBLIC HEARING.

Council Member Marsh commented that the uranium referred to in the report is equivalent to less than one-half of one trillionth, which is very small compared to many other every-day activities.

Motion was made by Council Member Marsh, and seconded by Council Member Fry, to approve the report prepared by staff comparing the City of Westminster water quality with Public Health Goals (PHGs) adopted by California EPA's Office of Environmental Health Hazard Assessment (OEHHA) and Maximum Contaminant Level Goals (MCLG's) adopted by the USEPA. The motion was carried by a 5-0 vote.

4. ORAL COMMUNICATIONS

Phil Hodgetts, resident of Westminster and member of the Energy Committee, announced that the AQMD offers a program to replace gas-motorized lawn mowers.

Darrell Nolte, resident of Westminster, spoke regarding "black-box voting", or any method of voting where the mechanism that tabulates the vote is hidden from the voter.

Bob Crossley, resident of Westminster, commented on the resolution adopted at the last Council meeting regarding officials from the Socialist Republic of Vietnam traveling in or through the City of Westminster, questioned the timing of the item and said that the Mayor spoke to the crowd outside the Council Chambers using amplified sound without a special event permit.

5. MATTERS FROM COUNCIL/AGENCY/AUTHORITY MEMBERS

5.1 Council/Agency Member Items

Mayor Rice reported to Code Enforcement that maintenance workers used blowers and blew all the trash into the street in front of the Knights of Columbus Hall on Westminster Boulevard. The Mayor said she received a number of calls regarding the housing project to be built on 13th Street and she learned that the project was delayed due to a soil compaction problem, but should be completed within 12 months.

6. MATTERS FROM CITY MANAGER/EXECUTIVE DIRECTOR

6.1 Authorization to Increase Vehicle Fuel Purchase Order No. 17843 to Petro Diamond, Inc. and Transfer of \$55,000.00 to cover higher fuel costs for FY 2003-04 (502-16)

Motion was made by Council Member Fry, and seconded by Council Member Paris, to:

- 1) Transfer \$15,294.00 from Equipment Replacement Fund 700 (Budget Contingency Reserve) and \$39,706.00 from Equipment Replacement Fund 700 (Emergency Reserve) to Fleet Maintenance Account No. 58000-44000; and

- 2) Approve an increase of \$55,000.00 to Purchase Order No. 17843 to Petro Diamond, Inc. for Gasoline and Diesel Fuel.

The motion was carried by a 5-0 vote.

7. WRITTEN COMMUNICATIONS (Public)

7.1 Request from Orange County Transportation Authority (OCTA) (112-10)

Motion was made by Council Member Fry, and seconded by Council Member Paris, to approve the request from OCTA to use the remaining balance of federal funds in the amount of \$59,734.69 to purchase a Para transit van for their ACCESS Program. The motion was carried by a 5-0 vote.

Mayor Rice asked if items such as this could be moved forward on the agenda ahead of the public hearings when staff is required to attend.

8. LEGISLATIVE ITEMS – None

9. COMMISSION AND COMMITTEE ITEMS

9.1 Parking Restrictions on west side of Edwards Street, north of Kiowa Road (608-02)

Motion was made by Council Member Fry, and seconded by Council Member Paris, to approve the recommendation of the Traffic Commission and:

- 1) Adopt Resolution No. 3837 entitled, "A Resolution of the City Council of the City of Westminster providing for No Parking or Stopping on the west side of Edwards Street, north of Kiowa Road", and waive further reading; which provides for the parking restrictions; and
- 2) Approve the construction of a concrete pad behind the sidewalk for relocating the existing bus shelter.

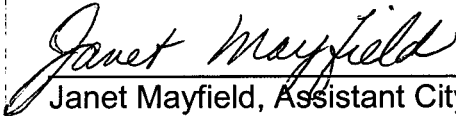
The motion was carried by the following vote:

AYES: RICE, QUACH, FRY, MARSH, PARIS
NOES: NONE
ABSENT: NONE

9.2 Resignation of Kelly Le from the Tree Education Committee (Mayor Pro Tem Quach Appointee) (104-25)

Motion was made by Mayor Pro Tem Quach, and seconded by Mayor Rice, to accept the resignation of Kelly Le from the Tree Education Committee with regrets. The motion was carried by a 5-0 vote.

10. **COUNCIL/AGENCY ADJOURNMENT:** At 10:05 p.m. Mayor/Agency Chair Rice adjourned the meeting in memory of Staff Sgt. Victor A. Rosales and Paul Parker to Monday, June 7, 2004 at 6:00 p.m. in the Council Chambers, 8200 Westminster Boulevard, Westminster, for the purpose of holding a study session to discuss City/Agency business.



Janet Mayfield, Assistant City Clerk/
Acting Agency Secretary